

AMENDED IN SENATE AUGUST 18, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

**ASSEMBLY BILL**

**No. 52**

**Introduced by Assembly Member Simitian**

December 2, 2002

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An act to amend Section 42239 of, to add Sections ~~37252.5, 37252.6, and 37254 to, and to repeal Sections 37252.2 and 37252.8 of, the Section 37254 to, and to repeal Section 37252.2 of, the~~ Education Code, relating to pupil instruction, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 52, as amended, Simitian. Supplemental instruction.

(1) Existing law requires a school district to offer supplemental instruction to pupils in grades 2 to 9, inclusive, who are recommended for retention or who are retained in the same grade.

This bill would ~~additionally authorize a school district to offer supplemental instruction to pupils in grades 2 to 6, inclusive, who are at risk of retention.~~

~~(2) Existing law requires a school district to offer supplemental instruction to pupils in grades 2 to 6, inclusive, who are either deficient in mathematics, reading, or written expression based on the results of statewide achievement tests or at risk of retention in the same grade. Existing law limits the amount of funding a school district may receive for this instruction.~~

~~This bill would remove the authorization to provide supplemental educational services to a pupil based solely on his or her being at risk of retention in the same grade. The bill would make other conforming changes in related provisions.~~

~~(3) repeal that provision and make conforming changes in a related provision.~~

(2) Existing law requires the Superintendent of Public Instruction to use available funding appropriated for purposes of certain supplemental instruction programs if funding is insufficient to pay all claims made for certain other supplemental instruction programs. Existing law requires the superintendent to notify the Director of Finance if there is a deficiency of funding for purposes of certain supplemental instructional programs only after all available balances of appropriations for the current or prior fiscal years are exhausted.

This bill would also require notification if it is necessary to use available funding for supplemental instruction to cover deficiencies of funding for other supplemental instruction programs.

~~(4)~~

(3) This bill would make an appropriation by authorizing the Department of Finance to transfer amounts appropriated each fiscal year in the annual Budget Act for the Intensive Algebra Instruction Academies Program, the Elementary School Intensive Reading Program, and Remedial Supplemental Instruction ~~programs~~ Programs among those programs in order to minimize deficiencies for any of those programs.

~~(4) This bill would become operative only if SB 19 is enacted and becomes effective on or before January 1, 2004.~~

Vote: majority. Appropriation: yes. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 37252.2 of the Education Code is  
 2 repealed.  
 3 ~~SEC. 2. Section 37252.5 is added to the Education Code, to~~  
 4 ~~read:~~  
 5 ~~37252.5. (a) The governing board of each district~~  
 6 ~~maintaining any or all of grades 2 to 9, inclusive, shall offer, and~~  
 7 ~~a charter school may offer, programs of direct, systematic, and~~  
 8 ~~intensive supplemental instruction to pupils enrolled in grades 2~~  
 9 ~~to 9, inclusive, who are recommended for retention or who are~~  
 10 ~~retained pursuant to Section 48070.5. A school district or charter~~  
 11 ~~school may require a pupil who is retained to participate in~~  
 12 ~~supplemental instructional programs. Notwithstanding the~~

1 requirements of this section, the school district or charter school  
2 shall provide a mechanism for a parent or guardian to decline to  
3 enroll his or her child in the program. Attendance in supplemental  
4 instructional programs is not compulsory within the meaning of  
5 Section 48200.

6 (b) The governing board of each district maintaining any or all  
7 of grades 2 to 6, inclusive, and each charter school, may offer  
8 direct, systematic, and intensive supplemental instruction to pupils  
9 enrolled in any of grades 2 to 6, inclusive, who are identified as  
10 being at risk of retention pursuant to Section 48070.5.

11 (c) Supplemental educational services pursuant to subdivisions  
12 (a) and (b) may be offered during the summer, before school, after  
13 school, on Saturdays, or during intersession, or in a combination  
14 of summer school, before school, after school, on Saturday, or  
15 intersession instruction. Services may not be provided during the  
16 pupil's regular instructional day. Any minor pupil whose parent or  
17 guardian informs the school district that the pupil is unable to  
18 attend a Saturday school program for religious reasons, or any  
19 pupil 18 years of age or older who states that he or she is unable  
20 to attend a Saturday school program for religious reasons, shall be  
21 given priority for enrollment in supplemental instruction offered  
22 at a time other than Saturday over a pupil who is not unable to  
23 attend a Saturday school program for religious reasons.

24 (d) For purposes of this section, a pupil shall be considered to  
25 be enrolled in a grade immediately upon completion of the  
26 preceding grade. Summer school instruction may also be offered  
27 to otherwise eligible pupils who were enrolled in grade 6 or 9  
28 during the prior school year.

29 (e) Each school district or charter school shall use results from  
30 tests administered under the Standardized Testing and Reporting  
31 Program, established pursuant to Article 4 (commencing with  
32 Section 60640) of Chapter 5 of Part 33 or other evaluative criteria  
33 to identify eligible pupils pursuant to subdivision (b).

34 (f) An intensive remedial program in reading or written  
35 expression offered pursuant to this section shall, as needed,  
36 include instruction in phoneme awareness, systematic explicit  
37 phonics and decoding, word attack skills, spelling and vocabulary,  
38 explicit instruction of reading comprehension, writing, and study  
39 skills.

~~(g) Each school district or charter school shall seek the active involvement of parents, guardians, and classroom teachers in the development and implementation of supplemental instructional programs provided pursuant to this section.~~

~~(h) It is the intent of the Legislature that pupils who are at risk of failing to meet state-adopted standards, or who are at risk of retention, be identified as early in the school year and as early in their school careers as possible, and be provided the opportunity for supplemental instruction sufficient to assist them in attaining expected levels of academic achievement.~~

~~(i) Notwithstanding any other provision of law, neither the State Board of Education nor the Superintendent of Public Instruction may waive any provision of this section.~~

~~SEC. 3. Section 37252.6 is added to the Education Code, to read:~~

~~37252.6. (a) The governing board of each school district maintaining any or all of grades 2 to 6, inclusive, and any charter school, may offer programs of direct, systematic, and intensive supplemental instruction to pupils enrolled in grades 2 to 6, inclusive, who are identified as having a deficiency in mathematics, reading, or written expression based on the results of any test administered under the Standardized Testing and Reporting Program established pursuant to Article 4 (commencing with Section 60640) of Chapter 5 of Part 33.~~

~~(b) Supplemental educational services offered pursuant to this section may be offered during the summer, before school, after school, on Saturdays, or during intersession, or in a combination of summer school, before school, after school, on Saturday, or intersession instruction. Services may not be provided during the pupil's regular instructional day. Any minor pupil whose parent or guardian informs the school district that the pupil is unable to attend a Saturday school program for religious reasons, or any pupil 18 years of age or older who states that he or she is unable to attend a Saturday school program for religious reasons, shall be given priority for enrollment in supplemental instruction offered at a time other than Saturday, over a pupil who is not unable to attend a Saturday school program for religious reasons.~~

~~(c) For purposes of this section, a pupil shall be considered to be enrolled in a grade immediately upon completion of the~~

1 preceding grade. Summer school instruction may also be offered  
2 to pupils who were enrolled in grade 6 during the prior school year.

3 ~~(d) An intensive remedial program in reading or written~~  
4 ~~expression offered pursuant to this section shall, as needed,~~  
5 ~~include instruction in phoneme awareness, systematic explicit~~  
6 ~~phonics and decoding, word attack skills, spelling and vocabulary,~~  
7 ~~explicit instruction in reading comprehension, writing, and study~~  
8 ~~skills.~~

9 ~~(e) Each school district or charter school shall seek the active~~  
10 ~~involvement of parents, guardians, and classroom teachers in the~~  
11 ~~development and implementation of supplemental instructional~~  
12 ~~programs provided pursuant to this section.~~

13 ~~(f) It is the intent of the Legislature that pupils who are at risk~~  
14 ~~of failing to meet state adopted standards, or who are at risk of~~  
15 ~~retention, be identified as early in the school year and as early in~~  
16 ~~their school careers as possible, and be provided the opportunity~~  
17 ~~for supplemental instruction sufficient to assist them in attaining~~  
18 ~~expected levels of academic achievement.~~

19 ~~(g) (1) The maximum amount of funding for the purposes of~~  
20 ~~programs offered pursuant to this section to serve pupils in grades~~  
21 ~~2 to 6, inclusive, may not exceed 5 percent of the statewide total~~  
22 ~~enrollment in grades 2 to 6, inclusive, for the prior fiscal year~~  
23 ~~multiplied by 120 hours, multiplied by the hourly rate for the~~  
24 ~~current fiscal year as determined pursuant to subdivision (e) of~~  
25 ~~Section 42239.~~

26 ~~(2) A school district or charter school that offers instruction~~  
27 ~~pursuant to this section is entitled to receive reimbursement in an~~  
28 ~~amount up to 5 percent of the district's or charter school's total~~  
29 ~~enrollment in grades 2 to 6, inclusive, for the prior fiscal year~~  
30 ~~multiplied by 120 hours, multiplied by the hourly rate for the~~  
31 ~~current fiscal year as determined pursuant to subdivision (e) of~~  
32 ~~Section 42239.~~

33 ~~(h) Notwithstanding any other provision of law, neither the~~  
34 ~~State Board of Education nor the Superintendent of Public~~  
35 ~~Instruction may waive any provision of this section.~~

36 ~~SEC. 4. Section 37252.8 of the Education Code is repealed.~~

37 ~~SEC. 5.—~~

38 ~~SEC. 2. Section 37254 is added to the Education Code, to~~  
39 ~~read:~~

1 37254. Notwithstanding any other provision of law, the  
2 Department of Finance may transfer amounts between Items  
3 6110-104-0001, 6110-204-0001, and 6110-205-0001 of Section  
4 2.00 of the annual Budget Act in order to minimize deficiencies for  
5 any of the programs budgeted in those items.

6 ~~SEC. 6.—~~

7 *SEC. 3.* Section 42239 of the Education Code is amended to  
8 read:

9 42239. For the 2000–01 fiscal year, and each fiscal year  
10 thereafter, the Superintendent of Public Instruction shall compute  
11 funding for supplemental instruction for each school district or  
12 charter school in the following manner:

13 (a) Multiply the number of pupil hours of supplemental  
14 instruction claimed pursuant to Sections 37252 and 37252.5 by the  
15 pupil hour allowance specified in subdivision (c) or by a pupil hour  
16 allowance specified in the annual Budget Act instead of the  
17 amount computed in subdivision (c).

18 (b) Multiply the number of pupil hours of supplemental  
19 instruction claimed pursuant to Sections 37252.6 and 37253 by the  
20 pupil hour allowance specified in subdivision (c) or by a per-pupil  
21 hour allowance specified in the annual Budget Act instead of the  
22 amount computed in subdivision (c). The total number of pupil  
23 hours of supplemental instruction that may be claimed pursuant to  
24 Section 37253 may not exceed the limits on pupil hours that may  
25 be claimed as established by subdivisions (c) and (d) of Section  
26 37253. The total number of pupil hours of supplemental  
27 instruction that may be claimed pursuant to Section 37252.6 may  
28 not exceed the limits on pupil hours that may be claimed as  
29 established in subdivision (g) of that section.

30 (c) Commencing with the 2000–01 fiscal year, hours of  
31 supplemental instruction shall be reimbursed at a rate of three  
32 dollars and twenty-five cents (\$3.25) per pupil hour, adjusted in  
33 future years as specified in this section, provided that a different  
34 reimbursement rate may be specified for each fiscal year in the  
35 annual Budget Act that appropriates funding for that fiscal year.  
36 This amount shall be increased annually by the percentage  
37 increase pursuant to subdivision (b) of Section 42238.1 granted to  
38 school districts or charter schools for base revenue limit  
39 cost-of-living increases.

(d) (1) If appropriated funding is insufficient to pay all claims made in any fiscal year pursuant to Section 37252 or 37252.5, the superintendent shall use any available funding appropriated for the purposes of reimbursing school districts pursuant to Section 37252, Section 37252.5, or subdivision (d) of Section 37253.

(2) If appropriated funding is still insufficient to pay all claims made in any fiscal year pursuant to Section 37252 or 37252.5, the superintendent shall use any available funding appropriated for the purposes of reimbursing school districts for supplemental instruction in the prior fiscal year.

(3) If appropriated funding is still insufficient to pay all claims made in any fiscal year pursuant to Section 37252 or 37252.5, the superintendent shall use any available funding appropriated for the purposes of reimbursing school districts for supplemental instruction in the current fiscal year.

(4) The superintendent shall notify the Director of Finance 30 days before it is necessary to use available funding for supplemental instruction pursuant to this subdivision. The notice shall specify the dollar amount of claims that were met, the section for which the claims were submitted, and the item of appropriation that was used.

(5) The superintendent shall notify the Director of Finance that there is a deficiency of funding appropriated for the purposes of Sections 37252 and 37252.5 only after the superintendent has exhausted all available balances of appropriations made for the current or prior fiscal years for the reimbursement of school districts for supplemental instruction.

(e) Notwithstanding any other provision of law, neither the State Board of Education nor the Superintendent of Public Instruction may waive any provision of this section.

*SEC. 4. This act shall become operative only if Senate Bill 19 is enacted and becomes effective on or before January 1, 2004.*